

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN ROBERT DEMOS, JR,

Plaintiff,

v.

WASHINGTON STATE DEPARTMENT
OF CORRECTIONS et al.,

Defendants.

CASE NO. 3:22-cv-05539-DGE-JRC

ORDER DENYING THE REPORT
AND RECOMMENDATION

On August 3, 2022, Chief Magistrate Judge J. Richard Creatura prepared a Report and Recommendation (“R&R”) denying Plaintiff’s proposed application to proceed in forma pauperis (“IFP”) and dismissing the case. (Dkt. No. 2.) Plaintiff is a bar order litigant who has surpassed his three IFP applications this year. (*Id.* at 2.) Judge Creatura concluded that Plaintiff is barred from proceeding IFP because the bar orders in question enjoin Plaintiff without exception once he has surpassed the annual limit. (*Id.*) Plaintiff objects on the sole ground that the “imminent danger” exception under 28 U.S.C. § 1915(g) supersedes the dictates of the bar order limiting him to only three IFP actions per year. (Dkt. No. 3.) The Court finds that the bar

1 orders limiting Plaintiff to three IFP applications per year do not apply to subsequent
2 applications if Plaintiff plausibly pleads imminent danger and meets all other procedural
3 requirements of the prior injunctions. *See Demos v. Strange*, No. C22-5464-TL-JRC (W.D.
4 Wash. Aug. 3, 2022) (finding that Plaintiff's bar orders do not supersede the imminent danger
5 exception in 28 U.S.C. § 1915(g)). The Court will return the matter to the Honorable J. Richard
6 Creatura for further consideration consistent with this Order.

7 The Court therefore ORDERS:

- 8 1. Plaintiff's objection is SUSTAINED;
- 9 2. This matter to be returned to the Hon. J. Richard Creatura for further consideration of
10 whether the imminent danger exception applies, and all procedural requirements have
11 been met; and
- 12 3. The Clerk shall send copies of this order to Plaintiff and the Hon. J. Richard Creatura.

13 Dated this 15th day of September 2022.

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18 David G. Estudillo
19 United States District Judge
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